

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

DALE H. WEBER,

Defendant.

No. 4:14-CR-6049-SMJ

**ORDER GRANTING
DEFENDANT'S SECOND
MOTION TO CONTINUE**

**THIRD AMENDED¹ CASE
MANAGEMENT ORDER**

A pretrial conference occurred in the above-captioned matter on July 24, 2015. Defendant Dale Weber was present, represented by Christopher Swaby. Assistant U.S. Attorney Alison Gregoire appeared on behalf of the U.S. Attorney's Office (USAO). Before the Court was Defendant's Second Motion to Continue, ECF No. 75. Defense counsel Christopher Swaby requested a continuance of the pretrial motions filing deadline, the pretrial conference, and the trial, to allow more time to examine discovery, prepare any related motions, and prepare for trial. Defendant supported counsel's request for a trial continuance for the articulated reasons. ECF No. 79. The U.S. Attorney's Office (USAO) did not

¹ This Order amends and supersedes in part the Court's November 25, 2014 Case Management Order, ECF No. 35.

1 oppose the request. ECF No. 76. At the hearing, the Court granted Defendant's
2 motion to continue; this Order memorializes and supplements the Court's oral
3 ruling.

4 The Indictment was filed on November 12, 2014. ECF No. 27. Defense
5 counsel appeared for Defendant on July 9, 2015. ECF No. 74. This is Defendant's
6 third request for a continuance.

7 To ensure defense counsel is afforded adequate time to review discovery,
8 prepare any pretrial motions, conduct investigation, and prepare for trial, the Court
9 grants the motion, extends the pretrial motion deadline, and resets the currently-
10 scheduled pretrial conference and trial dates. The Court finds that Defendant's
11 continuance request is knowing, intelligent, and voluntary, and that the ends of
12 justice served by granting a continuance outweigh the best interest of the public
13 and Defendant in a speedy trial. The delay resulting from Defendant's motion is
14 therefore excluded under the Speedy Trial Act.

15 Counsel are advised that all successive continuance requests will be closely
16 scrutinized for the necessity of more time to effectively prepare, taking into
17 account the exercise of due diligence.

18 Having considered the parties' proposed case schedule and deadlines, the
19 Court now enters the following Third Amended Case Management Order, which
20 sets forth the deadlines, hearings, and requirements the parties will observe in this

1 matter. To the extent this Order conflicts with any previously-entered Orders in
2 this matter, this Order shall govern. All counsel are expected to carefully read and
3 abide by this Order and such provisions of the current CMO which have not been
4 superseded hereby. The Court will grant relief from the requirements in this
5 Order only upon motion and good cause shown.

6 Accordingly, **IT IS HEREBY ORDERED:**

7 **1.** Defendant's Second Motion to Continue, **ECF No. 75**, Supplemental
8 Motion to Continue Trial, **ECF No. 78**, and the USAO's Joint
9 Motion to Reset Trial, **ECF No. 81**, are **GRANTED**.

10 **2.** The Court finds, given defense counsel's need for time to review
11 discovery, prepare any pretrial motions, conduct investigation, and
12 prepare for trial, that failing to grant a continuance would result in a
13 miscarriage of justice and would deny defense counsel the reasonable
14 time necessary for effective preparation, taking into account the
15 exercise of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(i),(iv). The
16 Court, therefore, finds the ends of justice served by granting a
17 continuance in this matter outweigh the best interest of the public and
18 Defendant in a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A).

19 **3. Original CMO.** Counsel must review the provisions of the original
20 November 25, 2014 CMO, ECF No. 35, and abide by those

1 procedures which remain in full force and effect and are incorporated
2 herein except for the new compliance deadlines in the following
3 Summary of Amended Deadlines.

4 **4. Pretrial Conference**

5 A. The pretrial conference is **RESET** to **November 23, 2015**, at
6 **10:00 AM** in **RICHLAND**. At this hearing, the Court will
7 hear **ALL** pretrial motions that are noted for oral argument.

8 B. All Pretrial Conferences are scheduled to last no more than
9 **thirty (30) minutes**, with each side allotted **fifteen (15)**
10 **minutes** to present their own motions and resist motions by
11 opposing counsel. If any party anticipates requiring longer
12 than fifteen minutes, that party must notify the Courtroom
13 Deputy at least seven (7) days prior to the hearing. **Any party**
14 **who fails to provide this notice will be limited to fifteen (15)**
15 **minutes.**

16 **5. Trial.** The Court **SETS** this matter for jury trial on **December 14,**
17 **2015**, at **9:00 AM** in **RICHLAND**. Counsel and Defendant shall be
18 prepared to meet with the Court at least thirty (30) minutes prior to
19 the commencement of the trial.
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6. Pursuant to 18 U.S.C. § 3161(h)(7)(B)(i) and (iv), the Court
DECLARES EXCLUDABLE from Speedy Trial Act calculations
the period from **July 16, 2015**, the date defense counsel moved to
continue, through **December 14, 2015**, the new trial date, as the
period of delay granted for adequate preparation by counsel.

7. **Summary of Deadlines**

All pretrial motions, including discovery motions, <i>Daubert</i> motions, and motions <i>in limine</i> , filed	November 2, 2015
PRETRIAL CONFERENCE <i>Deadline for motions to continue trial</i>	November 23, 2015 10:00 AM - RICHLAND
CIs' identities and willingness to be interviewed disclosed to Defendant (if applicable)	August 3, 2015
Grand jury transcripts produced to Defendant Case Agent: Other Witnesses:	December 4, 2015 December 4, 2015
Exhibit lists filed and emailed to the Court	November 30, 2015
Witness lists filed and emailed to the Court	November 30, 2015
Trial briefs, jury instructions, verdict forms, and requested voir dire filed and emailed to the Court	December 4, 2015
Exhibit binders delivered to all parties and to the Court	November 30, 2015
Delivery of JERS-compatible digital evidence files to the Courtroom Deputy	December 4, 2015
Trial notices filed with the Court	December 4, 2015
Technology readiness meeting (in-person)	December 7, 2015
JURY TRIAL	December 14, 2015 9:00 AM - RICHLAND

1 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order
2 and provide copies to all counsel, the U.S. Probation Office, and the U.S.
3 Marshals Service.

4 **DATED** this 3rd day of August 2015.

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6 SALVADOR MENDOZA, JR.
7 United States District Judge
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